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## MISCELLANY.

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### THE INTERNATIONAL CRIMINAL LAW ASSOCIATION.

[L'Union Internationale de Droit Pénal.]

RECENT penal legislation, as well in Europe as in America, has been gradually emancipating itself from the once prevalent maxim of criminal law that punishment must be strictly measured by the offense committed, to the exclusion of every other measure. If nowhere pervading the whole system of any country, there are manifold evidences of a tendency to place the protection of society from crime and its consequences in its broadest sense as the highest end of repressive legislation. Crime is viewed more and more as a social phenomenon ; its causes and the means to be employed in suppressing it, are then plainly as much the concern of sociological investigators as of judges and lawyers.

The International Criminal Law Association purposes to cultivate the study of crime from this point of view. It was founded in the year 1889, mainly through the persevering efforts of Dr. Franz v. Liszt, professor of criminal law at Halle, formerly of Marburg. The aims and principles of this organization are best told in the language of the short and compact constitution of the organization which, aside from mere temporary provisions, is translated below :

I. The International Criminal Law Association holds that crime and its repression should be considered from the social as well as from the juridical standpoint. It purposes the incorporation of this principle, and the consequences which flow from it, in the science of criminal law, and in penal legislation.

II. The association adopts as the fundamental basis of its labors the following propositions :

1. The purpose of criminal law is a struggle against crime viewed as a social phenomenon.

2. Penal science and penal legislation should take into consideration the results of anthropological and sociological studies.

3. Punishment is one of the most efficacious means at the disposal of the State in combatting crime. It is not the only means. It should not be separated from other social remedies, and especially from preventive measures.

4. The distinction between habitual and occasional delinquents is essential in practice as well as in theory, and should be at the base of provisions of the penal law.

5. As the administrations of criminal courts and of prisons pursue the same end, as the significance of the sentence depends upon the mode in which it is carried out, the distinction common in modern law between the repressive organs and the prison organs is irrational and hurtful.

6. Restraint of liberty occupying justly the first place in our system of punishments, the association devotes special attention to all that concerns the improvement of prisons and allied institutions.

7. With respect to punishments by imprisonments of short duration, the association considers that the substitution for imprisonment of measures of an equivalent efficacy, is possible and desirable.

8. With respect to punishment by imprisonments of long duration, the association holds that the length of the imprisonment should depend not only upon the material and moral gravity of the offense committed, but also upon the results obtained by the penitentiary system.

9. With respect to incorrigible, habitual delinquents, the association holds that the penal system should aim at placing such delinquents beyond the possibility of harm for as long a time as possible, and this independently of the

gravity of the offense, even when there is merely a repetition of minor offenses.

III. The members of the association agree to the fundamental propositions above announced.

Members of the association may propose the admission of new members to the Executive Committee. Such proposal must be in writing, and the Executive Committee decides upon it by a majority vote, without stating the reasons for its decision.

IV. As a general rule one session is held each year. The sessions may, under circumstances, take place at longer intervals.

At each session the association designates the time and place of the following session.

V. The Executive Committee determines the order of proceedings, and provides that a basis of discussion shall be prepared by reports.

It presents at each session a report of the progress made since the date of the preceding reunion in the penal legislation of the different countries.

It publishes this report and also an abridgement of the minutes of the meetings.

VI. The association elects the members of the Executive Committee.

It provides at each session for the use of such languages as will most facilitate its deliberations.

The questions placed upon the order of proceedings of a session are not submitted to a vote.

Nevertheless, when two-thirds of all members voting unite in the support of any proposition submitted to the meeting, it is added to the fundamental propositions enumerated in Article II.

VII. The meeting votes by simple majority. Absent members may send in their votes by letter.

For every modification of this constitution a majority of two-thirds the members voting is necessary.

VIII. The Executive Committee is composed of three

members, who divide among themselves the duties of president, secretary and treasurer.

The committee chooses from its number the president of the general meeting.

IX. The annual dues are fixed at five francs—four reichs marks. Their collection is the duty of the treasurer.

The general meeting may decide upon a temporary or permanent increase of the dues.

It must be distinctly understood that the propositions of the second article form no absolute confession of faith to which adherence in every particular is required, but rather a statement of the general tendency of the association's work. The association already numbers over three hundred members. It draws its main support from professors of criminal law and those engaged in practical prison administration. Geographically, Germany and Austria-Hungary furnish the largest contingent of members, but most of the leading countries are represented, and some of them, notably Belgium, the Netherlands, Switzerland and Italy, quite numerous. The officers of the association are: President, M. Ad. Prins; Secretary, Dr. Franz v. Liszt; Treasurer, M. G. A. Van Hamel, professors of criminal law at Brussels, Halle and Amsterdam respectively. The rapid growth of the organization during the first year of its existence is an important guaranty of its future usefulness; certainly an indication that the time is ripe for labors such as it proposes.

From the *Bulletin* of the association, three numbers of which appeared in 1889, one can gain an admirable idea of the work which is being accomplished. Incidentally it may be remarked that French and German are the languages of the publication, all official announcements, reports of meetings, etc., being published in both languages.

At its first meeting in August, 1889, two important topics occupied the attention of the association—the treatment of minor offenders, and the treatment of habitual offenders, or “recidivistes.” It was generally held that a short im-

prisonment is worse than useless ; it is for first offenders, where thoughtlessness is frequently the reason for the offense, too severe a punishment, and too often it confirms men in criminal conduct, as they cannot afterward overcome the stigma of having been in prison. Various substitutes for short imprisonment were proposed. One of the special subjects of the debate was the question, Whether the introduction of conditional sentences, in other words, the suspension of the execution of the sentence during the good behavior of the offender for a period of probation, was desirable? The experience of Massachusetts was cited as highly satisfactory, and the association unanimously recommended the provisions of the Belgian law of 1888, which incorporates the principle to the attention of legislative bodies. In the further discussion of this topic, the practice of binding offenders over to keep the peace, which is as yet unknown in Continental Europe, was highly commended.

The system now in vogue of treating habitual offenders or recidivistes was sharply criticised. The association declared its most prominent defects to be a lack of classification, the uniformity in the treatment of habitual and occasional offenders, and again the abuse of short sentences, which permit habitual offenders to return to society without sufficient protection for the latter.

The discussions, of which the main results are here noted, were based upon the reports of the chief speakers published in the *Bulletin* prior to the meeting. The debates called out interesting experiences from all countries. In the *Bulletin* we find the reports above mentioned, abstracts of the proceedings, accounts of the progress of the association and its affairs, and finally, the survey of the progress of penal legislation during the year provided for by the constitution. It is to be hoped that in the future this portion of the work of the society may be something more than a brief statement of the measures proposed crowded into two printed pages.

If this organization should do nothing more than collect the material relating to recent progress in the repression of crime, its work would be of great value. But there is every reason to believe that much more will be accomplished. The work has been taken up by those whose professional activity is in this field, and not, as the President in his opening address pointed out, by those standing outside, as in the first agitation for the reform of prisons. A direct influence upon future legislation is one of the probabilities. The association emphasizes crime as a social phenomenon, and thus appeals not to a few legal theorists, but to all those who are interested in the complex relations of societary life. Its work touches close upon social science, and its success will mean another triumph for the sociological standpoint.

ROLAND P. FALKNER.

N. B.—It has been thought desirable to add a partial list of members, in order to show the character of the organization :

Argentine, Prof. N. Pinero; Austria, Dr. Baernreither, Prof. Hiller, Prof. Jellinek, Prof. Lammasch, Prof. Wahlberg; Belgium, Prof. Prins, Prof. Thiry; Bulgaria, Dr. Stoiloff; Chili, M. Vera; Denmark, Prof. Goos; France, Profs. Duguít, Gardeil, Leviellé, Marandout; Germany, Dr. Aschrott, Prof. v. Bar, Dr. Föhring, Dr. Fuld, Dr. v. Jagemann, Prof. v. Jhering, Councillor Illing, Prof. v. Kirchenheim, Warden Krohne, Prof. v. Lilienthal, Prof. v. Liszt, Dr. v. Mayr; Great Britain, Sir E. du Cane, Mr. Tallack, Mr. Havelock; Holland, Profs. Drucker, van Hamel, van der Hoeven; Hungary, Prof. Fayer, Dr. v. Kelemen, Dr. v. Szekács, Dr. v. Székely; Italy, Prof. Bodio, Dr. Bosco, Prof. Ferri, Baron Garofalo; Norway, Prof. Hagerup; Portugal, Prof. da Silva; Russia, Prof. Fomitzky, Dr. v. Moldenhawer, Prof. v. Oettingen, Prof. v. Rohland; Servia, M. Milenkovitch; Spain, Profs. Aramburu, Azcarete, Giner de los Rios; Sweden, Prof. Winroth; Switzerland, Prof. Gautier, Dr. Guillaume, Prof. Meili, Dr. Morel; United States, Mr. Z. R. Brockway, Rev. F. H. Wines.

The representation of the United States is inadequate for a country which has done so much for prison reform. The list of members in the United States includes, besides those mentioned, only the writer.